

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEANNETTE EILEEN BENZIGER,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:21-cv-01454-HBK

ORDER GRANTING PARTIES' JOINT
MOTION TO REMAND UNDER SENTENCE
FOUR OF 42 U.S.C. § 405(g), REVERSING
FINAL DECISION AND REMANDING
CASE¹

(Doc. No. 16)

ORDER FINDING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT MOOT

(Doc. No. 12)

Pending before the Court is the parties' Joint Motion to Remand filed July 26, 2022. (Doc. No. 16). Plaintiff Jeannete Eileen Benziger and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision.

¹ Both parties have consented to the jurisdiction of a magistrate judge, in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 9).

1 *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney’s fees under
2 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
3 *Melkonyan* court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
4 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
5 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
6 resetting the cause for a rehearing.” *Id.* (other citations omitted).

7 The Court grants the parties’ motion to remand under sentence four and reverses the
8 Commissioner’s final decision. On remand, “the Commissioner will further develop the record as
9 necessary, and issue a new decision.” (Doc. No. 16 at 1).

10 Accordingly, it is **ORDERED**:

11 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to
12 remand (Doc. No. 16) and REVERSES the Commissioner’s decision. This case is REMANDED
13 to the Commissioner of Social Security for further proceedings consistent with this Order.

14 2. An application for attorney fees may be filed by separate motion.

15 3. Plaintiff’s Motion for Summary Judgment (Doc. No. 12) is MOOT.

16 4. The Clerk shall enter judgment in favor of Plaintiff, terminate any deadlines, and close
17 this case.

18
19 Dated: July 27, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE